IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 365 of 1993

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CHAUDHARI MANSING DEVRAJ - Appellant(s)
Versus
STATE OF GUJARAT - Opponent(s)

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Appearance :
MR AD SHAH for Appellant(s) : 1,
MR.H.L. JANI, ADDL.PUBLIC PROSECUTOR for Opponent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 28/02/2007

ORAL JUDGMENT

Being aggrieved by judgement and order dated 17th March 1993 passed by the learned Additional Sessions Judge, Mehsana in Sessions Case No.46 of 1989, the

appellant is before this Court. The learned Additional Sessions Judge was pleased to acquit the accused nos.2 to 6 for offences under sections 393, 395, 511, 398 and 120(B) of IPC.

The learned Additional Sessions Judge was pleased to convict accused no.1-Chaudhary Mansing Devraj for offence under sec.393 of IPC and 25(1)(K) of the Arms Act.

After hearing the accused for sentence imposed the learned Judge was pleased to impose sentence of 3 months imprisonment and fine of Rs.500/- under sec.393 of IPC and 2 months imprisonment and fine of Rs.200/- under the Arms Act. Accused no.1 is sentenced to undergo further 1 month and 15 days imprisonment in lieu of the fine respectively. The learned Judge was pleased to order that the principal sentences be undergone concurrently.

2. The learned advocate Mr.Ahuja for the appellant submitted that this is a fit case for being considered for grant of benefit/s under the Probation

of Offenders Act. He submitted that at the relevant time the age of appellant was 32 years. On an earlier occasion after the matter was discussed for some time the appellant was ordered to remain present before the Court. The appellant appeared before the Court and filed an affidavit stating that today he is aged 50 years and is residing at Village Dahiyal, District Mehsana, that his family consists of widowed mother, wife, four daughters, one son, two younger brothers and their wives.

The appellant has also stated in the affidavit that the appellant and his brothers do not have any business and their main occupation is farming. They have 7-8 acres of agricultural land in common, that he has studied upto Second Year B.A. and he has no criminal antecedents to his credit prior to the incident, which took place on 05.03.1988.

The learned advocate for the appellant on instructions from the appellant submitted that there is no other criminal case registered against the appellant. Since 1988 till date he is not involved

in any other criminal case. Even prior to the date of the incident there is no criminal offence registered against the appellant. Taking into consideration the aforesaid contents of affidavit and submissions of learned advocate the Court deems fit to grant benefit of probation.

In view of the fact that the incident took place in 1988, the case was registered in the year 1993, it was decided on 17.03.1993 and the appeal was filed before this Court in the year 1993, which is pending till date and till date there is no criminal incident coming on record, filing of bond is also dispensed with. The Criminal Appeal is disposed of without setting aside the conviction recorded against the appellant.

(RAVI R. TRIPATHI, J.)

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